

Article 9.

North Carolina State Crime Laboratory.

**§ 114-60. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.**

In the Department of Justice there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public through the criminal justice system and to the criminal justice system in the discharge of their duties.

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service. (1937, c. 349, s. 7; 2003-214, s. 1(1); 2011-19, s. 10; 2013-360, s. 17.6(d), (m).)

**§ 114-61. Forensic Science Advisory Board.**

(a) Creation and Membership. – The North Carolina Forensic Science Advisory Board (Board) is hereby established as an advisory board within the Department of Justice. The Board shall consist of 15 members, consisting of the State Crime Laboratory Director, and 14 members appointed by the Attorney General as follows:

- (1) A forensic scientist or any other person with an advanced degree who has received substantial education, training, or experience in the subject of laboratory standards or quality assurance regulation and monitoring.
- (2) The Chief Medical Examiner of the State.
- (3) A forensic scientist with an advanced degree who has education, training, or experience in the discipline of molecular biology.
- (4) A forensic scientist with an advanced degree who has experience in the discipline of population genetics.
- (5) A scientist with an advanced degree who has experience in the discipline of forensic chemistry.
- (6) A scientist with an advanced degree who has experience in the discipline of forensic biology.
- (7) A forensic scientist or any other person with an advanced degree who has education, training, or experience in the discipline of trace evidence.
- (8) A scientist with an advanced degree who has experience in the discipline of forensic toxicology.
- (9) A member of the International Association for Identification.
- (10) A member of the Association of Firearms and Tool Mark Examiners.
- (11) A member of the International Association for Chemical Testing.
- (12) Repealed by Session Laws 2014-115, s. 46, effective August 11, 2014.

- (13) A member of the American Society of Crime Laboratory Directors.
- (14) A member of the Academy of Forensic Sciences.
- (15) A member of the American Statistical Association.

A chairman shall be elected from among the members appointed, and staff shall be provided by the Department of Justice.

(b) Meetings. – The Board shall meet biannually and at such other times and places as it determines. Members of the Board cannot designate a proxy to vote in their absence.

(c) Terms. – Members of the Board initially appointed shall serve the following terms: five members shall serve a term of two years; five members shall serve a term of three years; and five members shall serve a term of four years. Thereafter, all appointments shall be for a term of four years. A vacancy other than by expiration of term shall be filled by the Attorney General for the unexpired term. Members of the Board cannot designate a proxy to vote in their absence.

(d) Terms. – Expenses. – Members of the Board shall be paid reasonable and necessary expenses incurred in the performance of their duties. Members of the Board who are State officers or employees shall receive no compensation for serving on the Board but may be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Board but may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Board may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

(e) Functions. – The Board may review State Crime Laboratory operations and make recommendations concerning the services furnished to user agencies. The Board shall review and make recommendations as necessary to the Laboratory Director concerning any of the following:

- (1) New scientific programs, protocols, and methods of testing.
- (2) Plans for the implementation of new programs; sustaining existing programs and improving upon them where possible; and the elimination of programs which are no longer needed.
- (3) Protocols for testing and examination methods and guidelines for the presentation of results in court.
- (4) Qualification standards for the various forensic scientists of the Laboratory.

(f) Review Process. – Upon request of the Laboratory Director, the Board shall review analytical work, reports, and conclusions of scientists employed by the Laboratory. Records reviewed by this Board retain their confidential status and continue to be considered records of a criminal investigation as defined in G.S. 132-1.4. These records shall be reviewed only in a closed session meeting pursuant to G.S. 143-318.11 of the Board, and each member of the Board shall, prior to receiving any documents to review, sign a confidentiality agreement agreeing to maintain the confidentiality of and not to disclose the documents nor the contents of the documents reviewed. The Board shall recommend to the Laboratory a review process to use when there is a request that the Laboratory retest or reexamine evidence that has been previously examined by the Laboratory. (2011-19, s. 2; 2013-360, s. 17.6(d); 2014-115, s. 46.)

#### **§ 114-62. North Carolina State Crime Laboratory Ombudsman.**

The position of ombudsman is created in the North Carolina State Crime Laboratory within the North Carolina Department of Justice. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and

protocols at the State Crime Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime Laboratory and the Attorney General of North Carolina as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman. (2011-19, s. 6(a); 2013-360, s. 17.6(d), (n).)

#### **§ 114-63. Transfer of personnel.**

The Director of the North Carolina State Crime Laboratory shall have authority to transfer employees of the Crime Laboratory from one Crime Laboratory location in the State to another, or between Sections of the Laboratory, as the Director may deem necessary. When any member of the Crime Laboratory is transferred from one location to another for the convenience of the Crime Laboratory, or otherwise than upon the request of the employee, the Crime Laboratory shall be responsible for transporting the household goods, furniture, and personal effects of the employee and members of his or her household. (2013-360, s. 17.6(q); 2014-100, s. 17.7(b).)

#### **§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.**

Any State or local law enforcement agency that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory. (2016-88, s. 2(c).)

#### **§ 114-65. Statewide sexual assault evidence collection kit tracking system.**

(a) Legislative Intent. – The General Assembly finds that the preservation and testing of sexual assault evidence collection kits (SAECK or "kit") are important to public safety. Timely testing is vital to solve cases, punish offenders, bring justice to victims, and prevent future crimes. It is the intent of the General Assembly that every sexual assault evidence collection kit in North Carolina be tested. Sexual assault victims deserve no less.

(b) Establishment of System. – There is established in the State Crime Laboratory the Statewide Sexual Assault Evidence Collection Kit Tracking System (the System). All sexual assault evidence collection kits purchased or distributed under G.S. 143B-1201 on or after October 1, 2018, shall be trackable and shall comply with the requirements of the System. The Director of the State Crime Laboratory (Director) shall implement protocols and administer the System. The Secretary of the Department of Public Safety (Secretary) shall adopt rules, guidelines, and sanctions, for agencies required to participate in the System under this section. The Director shall guidelines for agencies required to participate in the System under this section. The Director shall ensure that the System protects victim information against disclosure to nonparticipating agencies.

Except as otherwise required for reporting under subsection (f) of this section, information maintained in the System is confidential and not a public record as defined in G.S. 132-1.

(c) Required Participation. – All medical providers, law enforcement agencies, forensic laboratories, or other persons or entities having custody or use of any sexual assault evidence collection kit in the State shall participate in the System and comply with the established protocols, rules, and guidelines. A participating entity shall be permitted to access the entity's tracking information through the System.

(d) Victim's Access to View Status of Kit. – It is the policy of the State to ensure that a victim of sexual assault or attempted sexual assault is able to track the location of the sexual assault evidence collection kit used to conduct the victim's forensic medical examination and that the victim is also able to determine whether forensic testing of the kit has been completed.

(e) Tracking of Previously Untested Kits. – The Director shall implement protocols and the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault evidence collection kits are trackable and are entered into the System. Any law enforcement agency, medical provider, or forensic laboratory that has in its custody a previously untested sexual assault evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules, and guidelines with respect to all untested kits.

For purposes of this subsection, a "previously untested sexual assault evidence collection kit" means any kit that has not undergone forensic testing and was identified and included in the 2017 statewide inventory of kits in law enforcement custody pursuant to Section 17.7 of S.L. 2017-57. To the extent practicable, and consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit governed by this subsection shall take reasonable measures to provide appropriate tracking information to the affected victim.

(f) Annual Report to the General Assembly. – Beginning October 1, 2019, and annually thereafter, the Director shall report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for the previous fiscal year:

- (1) The number of tracking-enabled kits shipped to medical facilities or medical providers.
- (2) The number of tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations of sexual assault or attempted sexual assault victims.
- (3) Of the tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations, the number of kits for which a sexual assault has been reported to law enforcement, sorted by law enforcement agency.
- (4) Of the tracking-enabled kits generated for reported cases, the number of kits submitted to a laboratory for forensic testing.
- (5) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed.
- (6) The number of tracking-enabled kits for which a sexual assault has not been reported, including the total submitted to local law enforcement and the total submitted to Department of Public Safety Law Enforcement Support Services.
- (7) Information regarding efforts to track and test previously untested kits described in subsection (e) of this section. (2018-70, s. 1.)

**§ 114-66:** Reserved for future codification purposes.

§ **114-67**: Reserved for future codification purposes.

§ **114-68**: Reserved for future codification purposes.

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